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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,514	11/08/2001	Richard J. Sueme	MLP 7163	5416

321 7590 03/17/2005

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER	
WATSON, ROBERT C	

ART UNIT	PAPER NUMBER
3723	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/008,514	SUEME ET AL.	
	Examiner	Art Unit	
	Robert C. Watson	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-9,11-13 and 15-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-9, 11, and 15-20* is/are allowed.

6)☒ Claim(s) *1-3,12 and 13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trcka in view of Coates.

Trcka shows a stanchion in a generally upright position pivotably moveable relative to the frame 10,18,20,30. The frame includes an elongated rail member 13. Figure 2 shows the lowered position of the stanchion and Figure 1 shows the raised upright position of the stanchion. The stanchion is manually brought to the work engaging position by a user pushing down on a lever.

Coates shows a pivotable stanchion 4 that is automatically biased into the work engagement position by means of an offset spring 6. The use of springs in clamps to provide a clamping force for the pivotal clamping jaw is well know and obvious means of providing a desired clamping force.

To bias the Trcka stanchion to the generally upright work engagement position by means of an offset spring would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Coates. One of ordinary skill in the art would have been motivated to do this in order to reduce the manual effort required to place the stanchion in the work engagement position. While Coates employs a single spring to have employed a plurality of springs would have been no more than an obvious duplication of the teachings of Trcka. Statements of intended

use as what objects will be placed on the bench is a matter of intended use that has no patentable significance; ie., the intended use statements – "to facilitate the stacking of frames on the bench" and "to facilitate unloading of the frames from the bench" have no patentable significance. In any case, the Trcka bench rail is capable of receiving a stack of thin panel members which may abut the upright stanchion of Trcka.

Claims 5-9, 11, and 15-20 are allowed.

Applicant's remarks have been given careful consideration. In particularly applicant takes the position that the Trcka device does not "facilitate the stacking of boards on the table." The rejection of record clearly stated that statements of intended use have not been accorded any patentable weight. Applicant choose to ignore this position. Applicant further argues that the Coates reference is non-analogous art. This position is clearly untenable since both Trcka and Coates are clamping devices. Moreover both references are classified in the same class (Class 269) in the USPTO which demonstrates unequivocally that these references are analogous. Applicant states that there is no motivation to combine the references. This position is also untenable inasmuch the rejection of record clearly and unequivocally sets forth a motivation statement. The use of springs in clamps to provide a clamping force for the pivotal clamping jaw is well know and obvious means of providing a desired clamping force.

Applicant's claims are directed to the broad concept of a bench with a spring biased clamping jaw which is well know and obvious. Applicant's remarks suggest that the novel concept in applicant's invention is what one chooses to do on the surface of

this well known bench. Applicant is advised that what one chooses to do on the surface of a well know bench is not patentable insofar as the bench is concerned.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 703 308-1747. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 703 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw

ROBERT C. WATSON
PRIMARY EXAMINER